



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAR 13 2003

J. Michael Martinez de Andino
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074

#11
DW

MAILED
MAR 13 2003
OFFICE OF THE DIRECTOR
TC 3600

In re application of
Jonathan Schull

Application No. 09/764,293

Filed: January 19, 2001

For: METHOD FOR ADAPTING A SOFTWARE
PRODUCT TO AN ENVIRONMENT

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on November 6, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

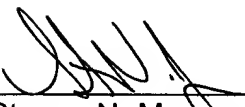
The request is **NOT APPROVED**. ✓

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), given the statement included in the request that, "SoftLock no longer has ownership rights in the application, and the assignee of those ownership rights refuses to grant or confirm our power to continue to prosecute the Application"; it is not clear that the statement satisfies one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Simply because a company has filed for bankruptcy or the Trustee has indicated that he would not provide or confirm power of attorney, that does not automatically meet one of the acceptable reasons for an attorney withdrawal. Applicant's attorney is correct that the power of attorney is not automatically revoked by a change in ownership, but it is not agreed that the continued withholding of a new power of attorney (power which the current attorney already has) is tantamount to a revocation, nor is it grounds under 37 CFR 10.40 for withdrawal. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 3/12/03